

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19"); and

WHEREAS, many important functions of State and Local Government are executed by "public bodies," as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention ("CDC") and the Massachusetts Department of Public Health ("DPH") have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

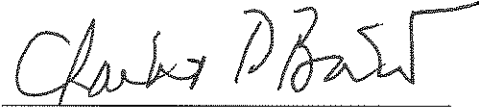
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in dark ink, appearing to read "Charles D. Baker". The signature is written in a cursive style with a horizontal line underneath it.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



Town of Arlington Notice of Meeting

In accordance with the provisions of Massachusetts General Laws,
Chapter 39, Section 23B, notice is hereby given of a meeting of the:

Finance Committee

Wednesday, March 17, 2021

7:30 p.m. – 10 p.m.

Conducted by Remote Participation - Zoom Meeting

AGENDA ITEMS:

- Virtual Open Meeting protocol and roll call
- Chair's comments
- Call for budgets
- Minutes for approval
- Article 27
- New business
- Adjourn

Charlie Foscett is inviting you to a scheduled Zoom meeting.

Topic: Finance Committee Meeting

Time: March 17, 2021 07:30 PM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://town-arlington-ma-us.zoom.us/join/tJwofumgpzItG9eKIPf-kigDj22eZfQ5YxNI>

After registering, you will receive a confirmation email containing information about joining the meeting

Members of the public are asked to send written comments to ediggins@town.arlington.ma.us

Documents regarding agenda items will be made available via the Town's website.

<https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

By Charlie Foscett, Chairman Finance Committee

ARTICLE 27

HOME RULE LEGISLATION/ REAL ESTATE TRANSFER FEE

To see if the Town will vote to authorize and request the Select Board to file Home Rule Legislation or other Special Legislation which would permit the Town to impose a real estate transfer fee or tax for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town; said fee or tax to be levied on the buyer, seller, or both on the purchase price of qualifying real estate, the proceeds of which are to be deposited in an Arlington Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws; to set forth the rate, the qualifications for applicable transfers, and exemptions of and to such a tax or fee; and to authorize the procedures and requirements necessary for the collection of such fee; or take any action related thereto.

WHEREAS Arlington is one of the Commonwealth's wealthiest towns with a median household income, of \$108,389¹, one of the highest in Boston's inner-core, and the median for married couples with dependent children is approximately \$159,375².

WHEREAS Arlington has one of the highest median single-family home price of any community in the Commonwealth, at \$860,000³ and the average market rent is approximately \$1,730⁴.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS in view of limits on Arlington revenue growth, there is likely insufficient funding from existing sources for affordable housing purposes after meeting the Town's existing operational and infrastructure maintenance commitments.

WHEREAS the Town of Arlington's Housing Plan Implementation Committee has explored a real estate transfer fee to expand Arlington affordable housing, among the possible purposes. While the State House and Senate will be considering a local option bill in 2021 and many home rule petitions are still pending, the Town should file its petition for the next legislative session so that Arlington may benefit and join any legislative hearings.

WHEREAS the Real Estate Transfer Fee, as recommended, would fund an Arlington Affordable Housing Trust Fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a Real Estate Transfer Fee would be in line with the direction of neighboring communities including Concord, Cambridge, and Somerville moving to employ such fees to create affordable housing.

WHEREAS this type of fee is appropriate to fund housing and is clearly defined, nonrecurring purposes.

¹ 2015-2019 American Community Survey

² 2015-2019 American Community Survey

³ Banker and Tradesman for calendar year 2020

⁴ 2015-2019 American Community Survey

WHEREAS a real estate transfer fee earmarked for the Arlington Affordable Housing Trust Fund is well suited to operate within the Town's organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established neighborhoods and commercial districts in Arlington.

THEREFORE, the Town of Arlington hereby requests that the Legislature grant the Town of Arlington authority to levy a real estate transfer fee on the purchase price exceeding a threshold set by the Select Board for the last 12 months, but not less than 100% of the statewide median sale price of a single family home as determined by the Department of Housing and Community Development for that same time period, to range between 0.05% and 2.0% as set by the Select Board upon the transfer of any real property interest or the transfer of a controlling interest in a trust, limited liability company, or other entity that directly or indirectly holds an interest, in any real property situated in the Town of Arlington. The Town shall have the authority to designate by bylaw whether the fee shall be borne by the buyer, the seller, or how it will be allocated between the two. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

And that the Town shall authorize certain transfers of real property interests be exempt from the fee including: transfers for less than 100% of the state median sale price of a single family home as determined by the Department of Housing and Community Development; transfers made as gifts with consideration less than \$100 if the seller shall have been at the time of the transfer the spouse, lineal descendant, or the lineal ancestor of the purchaser, by blood, marriage, or adoption; transfers to the federal government, the Commonwealth, and any of their instrumentalities, agencies or subdivisions, including the Town and the Arlington Housing Authority; transfers of residential property that include one or more units governed by affordable housing restrictions provided that the fee imposed shall be proportionately reduced based on the percentage of residential units with affordable housing restrictions, as compared to the total number of residential units; transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made; transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of death or bankruptcy of the owner of real property interest; transfers made in partition of land and improvements thereto, under chapter 241 of the General Laws; transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for affordable-housing related uses that are consistent with the uses allowed by the Arlington Affordable Housing Trust Fund; transfers for a mortgagee in foreclosure of the mortgage held by the mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from closing such mortgage; and transfers consisting of the division of marital assets under the provisions of Section 34 of chapter 208 of the General Laws or other provisions of law.

And the Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this in this law.

And that the Town may use existing methods for collection and lienage of any outstanding transfer fee. The fee shall be paid to the Town. The Town shall have such remedies to collect the fee as provided by

law with respect to the collection of real property taxes. The Town may, by bylaw, adopt additional requirements, exemptions, waivers, and regulations to implement or enforce said fee, consistent with this act.

And that the Town shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by: (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described above for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fees. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The South Middlesex Registry of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

And that the Town's appropriation of funds into the Arlington Affordable Housing Trust Fund under the provisions of MGL Chapter 44 Section 55 C, shall be limited to financing affordable housing and reasonable amounts for personnel and other costs.

And that the Town shall prepare and issue an annual report that: (i) identifies fee receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

And that this Act shall only become effective by a majority vote for a question on a Town election ballot or act on anything relative thereto.



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Select Board
Finance Committee

From: Jennifer Raitt, Director, Planning and Community Development, on behalf of the Housing Plan Implementation Committee

CC: Housing Plan Implementation Committee
Adam Chapdelaine, Town Manager

Date: March 16, 2021

RE: Warrant Article 27 – Real Estate Transfer Fee

For the 2020 Annual Town Meeting, the Housing Plan Implementation Committee (HPIC) submitted two companion articles: the adoption of a municipal affordable housing trust fund and authorization to establish a real estate transfer fee through a home rule petition. Both were deferred due to the ongoing pandemic, and the Arlington Affordable Housing Trust Fund was overwhelmingly adopted by the 2020 Special Town Meeting. The companion home rule petition has now been resubmitted to the 2021 Annual Town Meeting for consideration.

Since the fall of 2019, the HPIC conducted research, with the support of the Department of Planning and Community Development (DPCD), on real estate transfer fees (RETFs) as a way to create revenue dedicated to affordable housing purposes to be directly deposited into the Arlington Affordable Housing Trust Fund (AAHTF).¹ The HPIC believes that having a dedicated revenue source would ensure that the AAHTF has a continual stream of revenue to achieve the goals of its action plan. Simply put, the RETF would allow the Town to assess a fee on the purchase price of residential and commercial real estate transactions. The AAHTF would only be able to use the funds to address housing affordability.

As of 2019, RETFs were assessed by 38 states, numerous counties, and jurisdictions, and the District of Columbia.² A number of communities in the greater Boston area have submitted or plan to submit Home Rule petitions to establish a RETF, including Boston, Concord, Brookline, Somerville, Nantucket, and Provincetown. With the beginning of the current Legislative Session in early 2021, through the advocacy efforts of the Real Estate Transfer Fee Coalition, a consensus bill was filed in both branches ([HD.1911](#) & [SD.565](#)) to create a local option allowing municipalities to establish a real estate transfer fee.³ As there is no local option for Massachusetts cities and towns, the Warrant Article is filed as a

¹ The HPIC and DPCD staff continue to consider options for other revenue sources for the AAHTF due to the lengthy home rule petition process. The HPIC and DPCD anticipate that the Board of Trustees, once appointed, will consider revenue sources in the development of their action plan outlining goals and actions to address affordable housing needs in Arlington.

² <http://www.ncsl.org/research/fiscal-policy/real-estate-transfer-taxes.aspx>

³ <https://www.realestatetransferfee.org/>

Home Rule petition, which would eventually have to be added to a ballot for an upcoming election in Arlington. The Home Rule petition is aligned with the local option legislation.

As part of the research completed by the HPIC and DPCD, I would like to draw your attention to some key differences between other home rule petitions and the local option legislation. Key among these includes the threshold where the fee is triggered, the percentage established for the fee, and which party pays the fee. This information is presented to the Finance Committee and the Select Board to provide the context of the possible range of options for consideration.

The HPIC researched three different thresholds to trigger a RETF:

1. Sales equal to or greater than the Massachusetts the median single-family home sale price for the preceding 12 months (\$445,500 for calendar year 2020⁴), consistent with the local option legislation;
2. Sales equal to or greater than the Arlington median single-family home sale price for the preceding 12 months (\$860,000 for calendar year 2020⁵); and
3. Sales equal to or greater than one million dollars.

In 2020, there were 556 arm's length real estate transactions in Arlington.⁶ The number of sales greater than or equal to the statewide median was 515. The number of sales greater than or equal to the Arlington median was 239. The number of sales greater than or equal to 1 million was 127. The home rule petition gives the Select Board the authority to set this threshold with the limitation that it is not less than the statewide median single family home sale price.

The HPIC researched different percentages: 0.05%, 0.5%, 1%, and 2%. The home rule petition gives the Select Board the flexibility to set the percentage. The local option legislation allows a local jurisdiction to set the fee between 0.5% and 2%. The petitions reviewed range in percentages, and the HPIC prepared the following chart to present the revenue that could be captured at different transaction thresholds and percentages based on the 2020 median statewide sale price, the 2020 median Arlington sale price, and transaction of one million dollars:

Transaction Threshold	Total Value in Sales	0.05%	0.5%	1.0%	2.0%
Greater than or equal to \$445,500	\$453,341,983	\$226,671	\$2,266,710	\$4,533,420	\$9,066,840
Greater than or equal to \$860,000	\$265,484,487	\$132,742	\$1,327,422	\$2,654,845	\$5,309,690
Greater than or equal to \$1,000,000	\$162,009,056	\$81,005	\$810,045	\$1,620,091	\$3,240,181

In regard to which party should be assessed the fee, the HPIC reviewed examples from other communities. In the examples reviewed, other municipalities have required the fee to be paid half by the seller and half by the buyer, or entirely by the buyer, or entirely by the seller. There was no appreciable trend. The home rule petition gives Arlington the flexibility to identify the party responsible for the fee through bylaw.

⁴ Data from Banker and Tradesman for calendar year 2019.

⁵ Data from Banker and Tradesman for calendar year 2020.

⁶ Data provided by the Assessor's Office.

There are also a number of exemptions outlined in the Warrant Article. To be consistent with the local option legislative, the exemptions included in the home rule petition are exactly the same as the local option legislation. In addition to the exemptions listed, other communities have exempted transfers between an expanded number of family or household members, owner occupants, first time homebuyers who live in the home for at least 5 years, and transfers between parties with an annual income below 80% of Area Median Income as established by the U.S. Department of Housing and Urban Development for that city or town.

The Warrant Article provides the Town with the ability to, via bylaw, adopt additional requirements, exemptions, waivers, and regulations to implement or enforce the real estate transfer fee. The allowance to create a waiver process ensures that the special circumstances of any transaction might be considered by the Town, and the fee waived or reduced in some fashion.

In summary, the HPIC strongly supports this Warrant Article as a way to create sustainable and continuous revenue for the AAHTF. This type of funding could enable the AAHTF to be prepared to assist low- to moderate-income households in a holistic and well-capitalized way that Arlington has not yet been able to achieve. Furthermore, a well-funded AAHTF would serve as a vehicle to aggregate resources to support the creation and preservation of affordable units by AHA, HCA, and others.